

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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ALLIANCE FOR OPEN SOCIETY
INTERNATIONAL, INC. and OPEN SOCIETY
INSTITUTE,

Plaintiffs,

05 Civ. 8209 (VM) (DF)

v.

UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT and
ANDREW S. NATSIOS, in his official capacity as
Administrator of the United States Agency for
International Development,

Defendants.

-----X

NOTICE OF MOTION FOR PRELIMINARY INJUNCTION

Burt Neuborne (BN 9092)
Rebekah Diller (RD 7791)
David S. Udell (DU 4762)
Laura K. Abel (LA 6831)
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***Not admitted in this District**

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To: Richard E. Rosberger, Esq.
 Assistant United States Attorney
 Office of the United States Attorney – Southern District of New York
 86 Chambers Street
 New York, NY 10007
 Attorneys for Defendants United States Agency for International Development
 and Andrew Natsios, Administrator, USAID

PLEASE TAKE NOTICE that plaintiffs Open Society Institute (“OSI”) and Alliance for Open Society International (“AOSI”), pursuant to Federal Rule of Civil Procedure 65, upon the accompanying declarations of Burt Neuborne, Rosanna Barbero, Chris Beyrer, Pedro Chequer, Rebekah Diller, Robert Kushen, Ruth Messinger, Maurice Middleberg, and Aryeh Neier, and the exhibits thereto, and for the reasons set forth in the accompanying memoranda of law, will move before the Hon. Victor Marrero at a date and time to be set by the Court and the parties, at the Courthouse of the United States District Court for the Southern District of New York, 40 Centre St., New York, New York, 10007, for a preliminary injunction that does each of the following:

(1) barring defendants United States Agency for International Development (“USAID”) and Andrew Natsios, Administrator of USAID, from discontinuing and/or delaying the funding of plaintiff AOSI pending a final ruling on the merits;

(2) barring USAID from unilaterally terminating its Cooperative Agreement with AOSI or the Modifications of Assistance thereto, seeking a refund of moneys disbursed under the cooperative agreement, debarring AOSI, or otherwise taking action against AOSI, solely on the grounds that AOSI or OSI has used their private funding to engage in any privately funded actions protected by the First Amendment, including but not limited to:

(a) sponsoring or participating in a conference in New York this October entitled, “Sex Work, Sexual Rights and Countering the Conservative Sexual Agenda,”

(b) publicizing *Sex Work, HIV/AIDS, and Human Rights in Central and Eastern Europe and Central Asia*, published by the Central and Eastern European Harm Reduction Network,

(c) operating a listserv that provides a forum for participants to share information, opinions, and resources related to the health, safety and well-being of sex workers in Eastern Europe and the former Soviet Union, or

(d) providing funding and technical assistance to non-profit organizations working with sex workers to fight the spread of HIV/AIDS, including organizations that advocate for the most effective policies, including – where appropriate – changes in the legal treatment of sex workers in order to facilitate outreach to them and ensure their access to needed health care and social services.

(3) granting such other and further relief as the Court shall deem proper.

Plaintiffs also seek entry of a declaratory judgment that they that the pledge requirement contained in 22 U.S.C. § 7631(f) requires only that U.S.-based non-profits receiving Global AIDS Act funding state that sex work causes harm to the women involved, does not in any way restrict the activities in which those non-profits may

engage with their non-government funding, and does not impede the activities of plaintiff OSI in any way. In the alternative, the plaintiffs seek entry of a declaratory judgment that that USAID's application of the pledge requirement to the plaintiffs and other non-profit organizations based in the United States is unconstitutional.

Unless defendants are restrained and enjoined by order of this Court, plaintiffs will suffer immediate and irreparable injury, loss and damages in that their constitutional rights are being violated. Plaintiffs have no adequate remedy at law. The immediate and irreparable injuries faced by plaintiffs are more fully described and set forth in the Complaint, and the memoranda of law and accompanying declarations, and exhibits thereto, submitted in support of this motion.

Dated: New York, New York
September 28, 2005

/s/ Rebekah Diller

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